

**REMARKS**

This application is believed to be in condition for allowance for the reasons stated below.

**Status of the Claims**

Claims 1-24 remain in this application.

**Claim Rejections-35 USC §112**

Claims 1-24 were rejected under 35 U.S.C. § 112, second paragraph, for being indefinite. This rejection is respectfully traversed for the reasons that follow.

The position of the Official Action was that the term "drawn-curd" in claim 1 is indefinite.

However, one of ordinary skill in the cheese art would have readily understood this term since this term is commonly used in the field of cheese manufacturing, and the term is clearly defined in the application as filed, e.g., on page 5 in the second to last sentence.

Indeed, this term is defined as a synonym of "pasta filata" , as evidenced by page 729 of Davis, J.C. Cheese, Vol. 3, "Manufacturing methods", 1976; Edition Churchill Livingstone (See the Appendix of this Amendment). This meaning is confirmed by the application as filed (at the above noted location on page 5) which recites mozzarella, provolone

and cacciocavallo, all pasta filata type cheese, as main examples of drawn-curd cheese.

Therefore, the meaning of "drawn-curd" is clear, and the rejection should be withdrawn.

**Claim Rejections-35 USC §103**

Claims 1-24 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over DAHLSTROM et al. U.S. 6,319,526 (R1) in view of Karrazi U.S. 4,719,113(R2). This rejection is respectfully traversed for the reasons below.

The position of the Official Action was that R1 would describe a method for producing a mozzarella type cheese which would comprise a step wherein a fermented milk product, including yogurt, is added to comminuted curd.

Additionally, the Official Action noted that R1 teaches that the temperature used in the method is between 135°F and 150°F (about 57°C to 67°C), and that such a temperature would provide the texture of mozzarella.

However, it was admitted in the Official Action that R1 does not describe the step wherein the cheese mass is cooled to a temperature that does not destroy the flora present in the fermented milk product, before mixing of dairy product with the melted mass cheese.

The Official Action pointed out that R2 which relates to a process for producing a yogurt food product with

the consistency of cheese teaches that a base ingredient was heated to about 82°C is then cooled to about 37°C before being mixed with yogurt.

The Official Action concluded that it would have been obvious to one skilled in the art to follow the teachings of R1 and mix in the yogurt at a lower temperature as described in R2.

Applicant respectfully disagrees with this analysis.

R1 discloses a process of manufacturing a mozzarella or mozzarella-like cheese comprising (as described in column 5, third paragraph):

- i) grinding the curd; and
- ii) working the curd; that is, heating and mechanically kneading and stretching the curd to a viscous molten state wherein the curd wherein the curd develops into fibrous mass.

Dairy ingredients, including yogurt may be added, but R1 clearly indicates that such an addition is done prior to working of curd (see column 4, in the second to last paragraph). That is, these dairy ingredients are subjected to the heating of step ii).

On the contrary, the claimed method for producing a cheese product (in claim 1) specifies in step c) that the fresh fermented milk product is incorporated into the cheese mass, which was obtained by heating the drawn-curd cheese

between 60°C and 70°C in step b), only after the cheese mass has been cooled to a temperature which does not destroy the flora of the fresh fermented milk product.

Thus, the difference between the claimed method and the method of R1 are:

- the final product obtained by R1 would not contain any live flora, whereas the product of claim 1 includes live flora; and
- the final product obtained by R1 is mozzarella or mozzarella-like cheese, whereas mozzarella is the starting material of claim 1 (e.g., drawn-curd cheese, which is typically mozzarella as stated in the aforementioned section of page 5).

Turning to R2, this document discloses a process where the base ingredients (i.e. starting materials) are mixed and heated to about 82°C.

The starting material used in R2 does not contain drawn-curd cheese.

Additionally, heating the starting material to 82°C destroys the fibrous texture, and, therefore, the product obtained by the method of R2 cannot be a cheese product having a fibrous texture.

Therefore, R2 fails to cure the deficiency of R1; that is, using drawn-curd cheese as a starting material, and obtaining a fibrous cheese product with living flora.

To conclude, even if the person skilled in the art had taken into consideration and combined DAHLSTROM et al. (R1) with the teaching of in view of KARRAZI (R2), one would not have been led to the method according to claim 1.

Therefore, claims 1-24 are not rendered obvious by the proposed combination, and withdrawal of the rejection is respectfully requested.

### **Conclusion**

In view of the foregoing remarks and cited evidence, this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Robert A. Madsen/  
Robert A. Madsen, Reg. No. 58,543  
209 Madison Street, Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

RAM/fb

**APPENDIX:**

The Appendix includes the following item:

- Davis, J.C. Cheese, Vol. 3, "Manufacturing methods", page 729, 1976; Edition Churchill Livingstone.